

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/29/2024
--

-----X  
SUNI BIYAWALA VINTHANAGE,

Plaintiff,

-v-

MERRICK GARLAND, Attorney General of the United  
States; ALEJANDRO MAYORAKAS, Secretary,  
Department of Homeland Security; and ANDREA  
QUARANTILLO, District Director, U.S. Citizenship and  
Immigration Services, New York District Office,

Defendants.  
-----X

23-cv-3818 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff commenced this action on May 7, 2023, by filing a complaint in the nature of mandamus. Dkt. No. 1. Defendants appeared on June 8, 2023. Dkt. No. 5. On July 28, 2023, Defendants sought an extension of time until November 29, 2023 to respond to the complaint. Dkt. No. 6. The Court granted that request. Dkt. No. 7. However, on November 27, 2023, Defendants moved for a further extension of time to respond, until December 29, 2023. Dkt. No. 8. In their motion, Defendants stated that “USCIS has approved the plaintiff’s Form I-485,” and requested additional time “to reach out to Plaintiff about an informal resolution, and failing that, sufficient time for Defendants to prepare their anticipated motion to dismiss as moot.” *Id.* The Court granted the requested extension, Dkt. No. 9, but Defendants still have not answered or otherwise responded to the complaint.

Defendants are hereby ORDERED to file a letter no later than February 7, 2024, describing the status of this case and addressing whether the Court must dismiss it as moot. *See Fox v. Bd. of Trustees of State Univ. of N.Y.*, 42 F.3d 135, 140 (2d Cir. 1994) (“[T]he condition of mootness is not a defense that could be waived by the Defendants, but rather is a condition that deprives the court of subject matter jurisdiction.”); *see also Uddin v. U.S. Dep’t of Homeland Sec.*, 2021 WL 2701695, at \*1 (E.D.N.Y. June 30, 2021).

SO ORDERED.

Dated: January 29, 2024  
New York, New York



LEWIS J. LIMAN  
United States District Judge